

Cibik and Cataldo, P.C.

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Bar Number:

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF PENNSYLVANIA
PHILADELPHIA DIVISION**

IN RE: **Charles Montalvo**
xxx-xx-8375

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CASE NO **11-17385MDC13**

CHAPTER **13**

Debtor(s)

CHAPTER 13 PLAN

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE OF SAID COURT:

COMES NOW, Charles Montalvo, Debtor herein, and proposes the following plan under Chapter 13 of the Bankruptcy Code:

1. The debts of DEBTOR(S) duly proved and allowed shall be paid to the holder thereof in accordance with the provisions of Chapter 13 of the Bankruptcy Code and this Plan.
2. The future earnings of DEBTOR(S) are submitted to the supervision and control of this Court, and DEBTOR(S) shall pay to the TRUSTEE a sum of \$1,800.00 on the 30th day of each month commencing on _____ and continuing on the 30th day of each and every succeeding month thereafter for a full term (duration) of this plan. This plan shall be for 60 months.
3. From the payments received, the TRUSTEE will make disbursements in the following order:

(a). **Administrative Expenses:** The TRUSTEE shall FIRST pay the expenses as prescribed by the Court, for administration of this plan.

Name of Creditor	Type	Amount	Interest Rate	Monthly Payment	Term	Total Paid
Cibik and Cataldo, P.C.	Attorney Fees	\$3,950.00	0%	First Funds		\$3,950.00

(b). **Priority Claims:** All Claims entitled to priority under Section 507 of the Bankruptcy Code will be paid as follows:

Name of Creditor	Claim Amount	Amount Entitled To Priority	Interest Rate	Monthly Payment	Term	Total Paid
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(c). **Secured Claims:** Secured creditors, whose claims are duly and timely filed, approved and allowed will be treated as follows:

- (1). **Valuation of Collateral:** The Creditors listed below have a claim secured by a lien on the collateral shown and the claim of each creditor is secured to the extent of the fair market value of such property. The value of such creditor's interest in such collateral is as set forth hereinbelow and such fair market value set hereinbelow is binding as to each such creditor. Pursuant to the Bankruptcy Code, the Debtor(s) ask the Court to value the collateral shown as indicated below and to determine what portion, if any, of the following claim or claims are secured and what portions are unsecured. The purpose of this plan provision and valuation is to clearly provide that once Debtor(s) have paid such fair market value through the TRUSTEE, the lien of each such secured creditor shall be deemed invalid and, at such time, each creditor shall immediately execute and deliver any and all necessary documents to effectuate release of such lien and delivery of an unencumbered title to the Debtor(s).

Name of Creditor	Collateral Description	Fair Market Value
Harley Davidson Financial	2009 Motorcycle	\$10,000.00
Hsbc/polars	2011 Polaris Snow Remover used in Business	\$9,000.00

* Variable payments are scheduled, please see Pro Forma, if attached.

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(H) Charles Montalvo
(W)
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Each secured creditor described herein shall retain the lien existing prior to the commencement of the case only to the extent of the value of the collateral and to secure payment of the allowed amount of its claim. In the case of each secured creditor listed in this section, the allowed amount is the fair market value set forth herein. Once the allowed secured amount has been satisfied through the Plan, the creditor's lien will have been satisfied in full and the lien will no longer exist. Upon payment of the secured portion of a creditor's claim, the creditor shall immediately release its lien and deliver clear title to the Debtor(s).

- (2). **Payment of Secured Claims:** Secured creditors, whose claims are duly and timely filed, approved and allowed, will be paid as follows:

Name of Creditor	Amount Claimed	Principal Amt		Monthly		
Collateral	Value of Collat.	to Be Paid	Interest Rate	Payment	Term	Total Paid
City of Philadelphia Law Dept. 197 1/2 W Lippincott St, Philadelphia, PA 19133-	\$504.00 \$40,000.00	\$504.00	0%	Pro-Rata	1-16	\$504.00
City of Philadelphia Law Dept. 199 W. Lippincott St., Phila, PA	\$624.00 \$50,000.00	\$624.00	0%	Pro-Rata	1-16	\$624.00
City of Philadelphia Law Dept. 1930-32 N Palethorp St, Philadelphia, PA 19122	\$180.00 \$25,000.00	\$180.00	0%	Pro-Rata	1-16	\$180.00
City of Philadelphia Law Dept. 1925-27 N 2nd St, Philadelphia, PA 19122-2308	\$96.00 \$10,000.00	\$96.00	0%	Pro-Rata	1-16	\$96.00
Harley Davidson Financial 2009 Motorcycle	\$12,000.00 \$10,000.00	\$10,000.00	0%	Pro-Rata	1-16	\$10,000.00
Hsbc/polars 2011 Polaris Snow Remover used in Business	\$11,212.00 \$9,000.00	\$9,000.00	0%	Pro-Rata	1-16	\$9,000.00

- (3). **Void Lien:** The secured creditors listed below hold a non-purchase money, non-possessory security interest on Debtor(s) exempt property. Their lien will be voided pursuant to 11 U.S.C. § 522(f) and their claim treated as unsecured and paid pursuant to paragraph (e) below:

Name of Creditor	Collateral Description	Amount of Claim
Luis Jimenez	1925-27 N 2nd St, Philadelphia, PA 19122-2308	\$325,000.00

- (d). **Special Class:** The following specially classified claims shall be paid as follows:

Name of Creditor	Claim Amount	Principal Amt. To Be Paid	Interest Rate	Monthly Payment	Term	Total Paid
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- (e). **Unsecured Claims:** Unsecured claims will be paid pro rata by the TRUSTEE after payment of the aforementioned categories, to creditors who have duly and timely filed and proved their claim, with the same having been allowed by the Court, with such payments or dividends to be paid in lieu of the debt and in satisfaction of the debts of such creditors.

- (f). No interest, penalty or additional charge shall be allowed on any account subsequent to the filing of the petition herein, except that interest shall be allowed on claims to fully secured creditors in accordance with 11 U.S.C. § 506(b).

4. DEBTOR(S) shall pay direct the following debts outside the Plan:

Name of Creditor	Collateral Description	Monthly Amount	Balance
City of Philadelphia Law Dept.		\$42.00	
City of Philadelphia Law Dept.		\$52.00	
City of Philadelphia Law Dept.		\$15.00	
City of Philadelphia Law Dept.		\$8.00	
Wells Fargo Mortgage	199 W. Lippincott St., Phila, PA	\$271.00	\$15,000.00

5. The following secured claims are not dealt with in the DEBTOR(S)' plan, therefore, upon confirmation of the DEBTOR(S)' Chapter 13 Plan, the automatic stay provisions of 11 U.S.C. § 362 will be terminated and annulled with respect to each of the following claims:

Name of Creditor	Collateral Description	Claim	Value	Deficiency
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* Variable payments are scheduled, please see Pro Forma, if attached.

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The automatic stay provisions of 11 U.S.C. Sec. 362 remain in effect as to DEBTOR(S).
The remaining portion of the debt (deficiency), if any, shall be treated as any other general unsecured claim under this plan.

6. All executory contracts of the DEBTOR(S) will be assumed unless specifically rejected herein. The following executory contracts and/or leases are ASSUMED or REJECTED as indicated below:

Name of Creditor	Contract is Assumed/Rejected
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7. Upon confirmation of this plan, title of the property of the estate shall vest in DEBTOR(S).
8. The Court may, from time to time, during the period of the plan, extend, increase or reduce the amount of any of the installments provided for by the plan, or extend or shorten the time for any such payments where it shall be made to appear, after such hearing, upon such notice as the Court may designate, that the circumstances of DEBTOR(S) so warrant or so require; provided, however, that nothing in this plan shall be construed to prevent the granting of a discharge of DEBTOR(S) as provided in 11 U.S.C. § 1328.
9. **Post-Confirmation Cure or Waiver of Default:**
Any default of the DEBTOR'S post-confirmation plan payments may only be WAIVED by compliance with the provisions of 11 U.S.C. § 1329. Any default of post-confirmation plan payments may only be CURED by permission of the Standing Chapter 13 Trustee and compliance with such conditions as the TRUSTEE may impose.
10. **Post-Petition Claims:**
The DEBTOR(S) will not incur any post-petition consumer debt except after notice to creditors and approval by the Court or the Standing Chapter 13 Trustee. Post-petition claims will be allowed only as specified in 11 U.S.C. § 1305.

Additional Provisions of the Plan

11. Unsecured Priority Tax Claims Treatment in Plan

The unsecured priority claims of all taxing authorities provided for under the plan shall be paid pro-rata in full by the Chapter 13 Trustee before disbursement to the mortgagors, or other secured creditors.

PROCEEDS OF CLAIM

ANY PROCEEDS UPON CLAIMS OR LAWSUITS BY DEBTOR AGAINST THIRD PARTIES WHICH RESULT IN WARDS OR SETTLEMENTS SHALL BE TURNED OVER TO THE TRUSTEE FOR THE BENEFIT OF UNSECURED CREDITORS TO THE EXTENT THEY ARE OVER ANY EXEMPTIONS AVAILABLE TO THE DEBTOR

DATED on this the 27th day of October, 2011.

/s/ Charles Montalvo

Debtor: **Charles Montalvo**

Cibik and Cataldo, P.C.

/s/ Michael A. Cibik, Esquire

Michael A. Cibik, Esquire

Bar Number:

1500 Walnut Street

Suite 900

Philadelphia, PA 19102

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**IN THE UNITED STATES BANKRUPTCY COURT
 EASTERN DISTRICT OF PENNSYLVANIA
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IN RE: \$
 (H) **Charles Montalvo** \$ CASE NO: 11-17385MDC13
xxx-xx-8375 \$
 (W) \$
 Debtor(s) \$

FOR CLERK'S USE ONLY

CHAPTER 13 PLAN SUMMARY (EXHIBIT "A")

DATED: 9/21/2011.

Petition was filed on 9/22/2011.

H&W Monthly Take Home Pay: \$3,260.00 Expenses: \$1,455.00 Surplus: \$1,805.00

First payment due by:_____.

PLAN PAYMENT: Debtor(s) to pay \$1,800.00 per month for 60 months for a total of \$108,000.00.

ADMINISTRATIVE: Total debtor's attorney fees of \$6,000.00 with \$3,950.00 through the plan.

HOME MORTGAGE:

Regular mortgage payments on all liens to be "Direct" by Debtor beginning_____.

Arrearages are to be paid by the Trustee as follows:

Lien Holder	Total Arrearage	Through MM/DD/YY	Interest Rate	Payment Term	# of Payments	Periodic Payment Amount
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SECURED CREDITORS:

Name	Description of Collateral	Scheduled Amount	Value of Collateral	Annual Int. Rate	Term	Periodic Payment Amount
City of Philadelphia Law Dept.	197 1/2 W Lippincott St, Philadelphia, P	\$504.00	\$40,000.00	0%	1-16	Pro-Rata
City of Philadelphia Law Dept.	199 W. Lippincott St., Phila, PA	\$624.00	\$50,000.00	0%	1-16	Pro-Rata
City of Philadelphia Law Dept.	1930-32 N Palethorp St, Philadelphia, P	\$180.00	\$25,000.00	0%	1-16	Pro-Rata
City of Philadelphia Law Dept.	1925-27 N 2nd St, Philadelphia, PA 191	\$96.00	\$10,000.00	0%	1-16	Pro-Rata
Harley Davidson Financial	2009 Motorcycle	\$12,000.00	\$10,000.00	0%	1-16	Pro-Rata
Hsbc/polars	2011 Polaris Snow Remover used in Bu	\$11,212.00	\$9,000.00	0%	1-16	Pro-Rata
City of Philadelphia Law Dept.		\$0.00	\$0.00	0%	N/A	\$42.00 (Direct)
City of Philadelphia Law Dept.		\$0.00	\$0.00	0%	N/A	\$52.00 (Direct)
City of Philadelphia Law Dept.		\$0.00	\$0.00	0%	N/A	\$15.00 (Direct)
City of Philadelphia Law Dept.		\$0.00	\$0.00	0%	N/A	\$8.00 (Direct)
Wells Fargo Mortgage	199 W. Lippincott St., Phila, PA	\$15,000.00	\$50,000.00	0%	N/A	\$271.00 (Direct)

EXECUTORY CONTRACTS AND UNEXPIRED LEASES:

Creditor Name	Description of Contract	Election	In Default
(None)			

(H) Charles Montalvo
(W)
(C#) 11-17385MDC13**PRIORITY CREDITORS:**

Name	Amount Disputed	Scheduled Amount	Annual Int. Rate	Term	Periodic Payment Amount
Cibik and Cataldo, P.C.	\$0.00	\$3,950.00	0%		First Funds

SPECIAL CLASS UNSECURED CREDITORS:

Name	Basis for Classification	Scheduled Amount	Annual Int. Rate	Term	Periodic Payment Amount
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GENERAL UNSECURED CREDITORS: Pay approximately 22%.

Name	Disputed	Contingent	Note	Amount
Bank Of America	<input type="checkbox"/>	<input type="checkbox"/>		\$3,654.00
Bank Of America	<input type="checkbox"/>	<input type="checkbox"/>		\$245.00
Calvary Portfolio Services	<input type="checkbox"/>	<input type="checkbox"/>		\$520.00
Citibank Usa	<input type="checkbox"/>	<input type="checkbox"/>		\$327.00
Eos Cca	<input type="checkbox"/>	<input type="checkbox"/>		\$559.00
Harley Davidson Financial	<input type="checkbox"/>	<input type="checkbox"/>	Deficiency	\$2,000.00
Hsbc/polars	<input type="checkbox"/>	<input type="checkbox"/>	Deficiency	\$2,212.00
Jon Sirlin	<input type="checkbox"/>	<input type="checkbox"/>	Avoid Partial Lien	\$0.00
Luis Jimenez	<input type="checkbox"/>	<input type="checkbox"/>	Motion to Avoid Lien	\$325,000.00
Rshk/cbsd	<input type="checkbox"/>	<input type="checkbox"/>		\$64.00
Wells Fargo Bank Nv Na	<input type="checkbox"/>	<input type="checkbox"/>		\$0.00

Total Unsecured Debt --->

\$334,581.00**Additional Provisions of the Plan****11. Unsecured Priority Tax Claims Treatment in Plan**

The unsecured priority claims of all taxing authorities provided for under the plan shall be paid pro-rata in full by the Chapter 13 Trustee before disbursement to the mortgagors, or other secured creditors.

PROCEEDS OF CLAIM

ANY PROCEEDS UPON CLAIMS OR LAWSUITS BY DEBTOR AGAINST THIRD PARTIES WHICH RESULT IN JUDGMENTS OR SETTLEMENTS SHALL BE TURNED OVER TO THE TRUSTEE FOR THE BENEFIT OF UNSECURED CREDITORS TO THE EXTENT THEY ARE OVER ANY EXEMPTIONS AVAILABLE TO THE DEBTOR

CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that a copy of the foregoing CHAPTER 13 PLAN SUMMARY was served upon the following parties of interest:

William C. Miller, Esquire
Chapter 13 Trustee
P.O. Box 40119
Philadelphia, PA 19106-0119

and all parties and creditors listed on the attached matrix.

DATED: 10/27/2011

/s/ Michael A. Cibik, Esquire

Michael A. Cibik, Esquire